

PATENT
Attorney Docket No. PC11805A US

REMARKS

Claims 1-14 are pending in the application. Claims 13 and 14 are withdrawn, as discussed in greater detail below.

Applicants are being required to elect one of the following groups pursuant to 35 U.S.C. § 121:

- I. Claims 1 to 12, drawn to compounds and pharmaceutical compositions, classified in classes 544 and 546, various subclasses.
- II. Claims 13 and 14, drawn to methods of use, classified in class 514, various subclasses.

At the outset, Applicants respectfully traverse the restriction requirement. The Examiner relies on part (2) of M.P.E.P. § 806.05(h) to seemingly justify the present restriction requirement. That is, the Examiner asserts at page 2 of the Office Action, “. . . the product as claimed can be use[d] in a materially different process of using that product as note the multiple disorders or conditions that can be treated in group II.” The Examiner, however, has not provided Applicants with an example of what “materially different processes” the claimed product can be used. The Examiner is respectfully reminded that the burden is on the Examiner to provide such an example. M.P.E.P. § 806.05(h) (8th ed.). Therefore, Applicants respectfully request the Examiner withdraw the restriction requirement.

Nevertheless, to advance the prosecution of the present application and to be fully responsive to the present restriction requirement, Applicants hereby elect Group I (claims 1-12) with traverse for examination purposes. In addition, non-elected claims 13 and 14 are withdrawn

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without prejudice to pursuing the subject matter of such claims in any continuing application, such as, e.g., a continuation application, a divisional application, etc.

In addition, the Examiner at page 3 of the Office Action is also requiring Applicants to elect a single species under 35 U.S.C. § 121. In response, Applicants hereby elect the species of Example 6 having the name (*cis*)-5-chloro-2-{2-[3-(4-fluoro-phenoxy)-8-aza-bicyclo[3.2.1]oct-8-yl]-2-oxo-ethoxy}-benzamide.

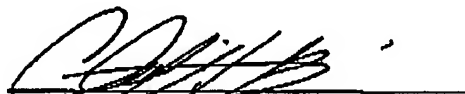
Pursuant to MPEP § 821.04, if the compound and composition claims of elected Group I are subsequently found allowable, Applicants respectfully request that the method claims of Group II (claims 13-14), which depend from or otherwise include all the limitations of the allowable compound claims, be rejoined.

Applicants believe that no fee is associated with the filing of this paper. However, to the extent a fee is due, the Commissioner is hereby authorized by this paper to charge any required fees or credit any overpayment to Deposit Account 16-1445.

Respectfully submitted,

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Response to Restriction Requirement dated 8/11/05